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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,160	03/10/2006	Tommy Milne	GOTY0101PUSA	3556
22045 7590 02/05/2007 BROOKS KUSHMAN P.C. 1000 TOWN CENTER TWENTY-SECOND FLOOR SOUTHFIELD, MI 48075			EXAMINER BLAU, STEPHEN LUTHER	
			ART UNIT	PAPER NUMBER
			3711	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/05/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/595,160

Applicant(s)

MILNE, TOMMY

Examiner

Stephen L. Blau

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/20/06</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Throughout the claims the fingers are called rigid yet there is insufficient antecedent basis for this limitation in the specification. Nowhere does it state that the fingers are rigid. Claim 10 recites the limitation "the fingers" in 4. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Wang.

Wang discloses a plurality of resiliently held in the form of a thin root portion (Ref. No. 313), rigid fingers in the form of not being thin like the thin root portion (Ref. Nos. 31, Col. 7 lines 7-20), finger aligned such that when urged against the surface of a ball the fingers will spread against resilient pressure enabling a ball to enter (Col. 3, Lns. 60-65), a base secured on an upper end of a shaft (Fig. 1), and finger able to pivot about a base in the form of the thin root portion (313) but prevent movement parallel to an axis of an axis of a shaft (Fig. 1).

5. Claims 1-2, 6-8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsukamoto.

Tsukamoto discloses a plurality of substantially rigid ball engaging member in the form of fingers being made of steel (Col. 3, Lns. 45-50) and having a width longer in length than the thickness and as such there will be rigidity in the width direction (Fig. 4), an abutment member (40) covering an open area between the ends of the fingers (Fig. 5) distal to a base member (32, Fig. 7), ball engaging members (34) being held in close adjacent configuration (Fig. 10) by resilient means in the form of the thin thickness of the prongs allowing resilience of the prongs yet keeping them as shown in figure 10, and means acting to prevent translation of the fingers with respect to the base member in the form being attached to the base member (Figs. 9-10), a shaft (33a), an abutment member at a forward end of a shaft (Figs. 9-10), and three fingers symmetrically aligned

about a central axis of a device in the form of all four fingers are symmetrically aligned so three or less of the fingers are as well (Fig. 4).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-2 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kremer in view of Wang.

Kremer discloses a base (2), two rigid fingers (Ref. Nos. 12-13, 15) projecting from the base and substantially parallel to an axis of the base (Fig. 2), a resilient support being provided at the base in the form of leaf springs (Ref. Nos. 20-21) allowing each finger independently from the other finger to be movable with respect to the base so as to pivot about the base (Figs. 2,4) so the fingers distal from the base will swing outwardly and allow against resilient pressure (20,21) a spread to provide ball capturing (Fig. 4), a shaft (6) supporting an abutment member (7) at a forward end of a shaft and when not in use is positioned at an end distal from the base (Fig. 2).

Kremer lacks a base able to be secured to an upper end of a golf club shaft and a device in combination with a putter. Wang discloses a retriever device with has a base able to be secured to an upper end of a golf club shaft (Figs. 1-3) and a device in

combination with a putter (Title). In view of the patent of Wang it would have been obvious to modify the device of Kremer to have a base able to be secured to an upper end of a golf club shaft and a device in combination with a putter in order to utilize the shaft of a golf club to retriever balls.

8. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kremer in view of Wang as applied to claims 1-2 and 7 above, and further in view of Borah.

Kremer lacks a device having a stern that is embedded in an end of a shaft.

Borah discloses ball retrievers which are connected to the outer end of a handle (Fig. 4) or inside the handle (Fig. 6). In view of the patent of Borah it would have been obvious to modify the device of Kremer to have device having a stern that is embedded in an end of a shaft in order to use less material for attaching a tool to the end of a club.

9. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luther in view of Tsukamoto.

Luther discloses an end abutment member covering an open area near between the ends of the fingers (Fig. 2) and an abutment member supported by a resilient support (29).

Luther lacks a plurality of rigid engaging members, an end abutment member covering an open area between the ends of the fingers and a resilient support being coaxial with the cup shape.

Tusukamoto discloses a plurality of substantially rigid ball engaging member in the form of fingers being made of steel (Col. 3, Lns. 45-50) and having a width longer in length than the thickness and as such there will be rigidity in the width direction (Fig. 4). In view of the patent of Tsukamoto it would have been obvious to modify the retriever of Luther to have a plurality of rigid engaging members in form of wide fingers in order to provide a retriever with fingers which are more stiff in the transverse direction.

Asta discloses a ball retriever having an abutment member in the form of the end of the shaft extending beyond the opening of the cup (Fig. 3), being supported by a resilient support (34) and the resilient support being coaxial with the cup shape (Fig. 1). In view of the patent of Asta it would have been obvious to modify the retriever of Luther to have a resilient support being coaxial with the cup shape in order place the resilient support at an easier position of outside the shaft as oppose to inside. In view of the patent of Asta it would have been obvious to modify the retriever of Luther to have an end abutment member covering an open area between the ends of the fingers in order to ensure the ball is pushed out of the retriever.

***Allowable Subject Matter***

10. Claims 3-5 and 13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. With respect to claim 3, none of the prior art discloses or renders as obvious a a device adapted to be located

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on an upper end of a shaft, a shaft supporting an abutment member at a forward end of the shaft and an abutment member extending across an area between outer ends of the respective fingers in addition to the other elements of structure claimed. With respect to claims 4-5, none of the prior art discloses or renders as obvious a cam member slidably supported by the shaft and resiliently biased into an outwardmost position relative to the base which is inwardly moved relative to the fingers in addition to the other elements of structure claimed. With respect to claim 13, none of the prior art discloses or renders as obvious a resilient means urging the abutment member against the ball in addition to the other elements of structure claimed. With respect to Tsukamoto (US 5,004,240) and claim 3, Tsukamoto does not disclose a shaft supporting an abutment member at a forward end of the shaft and an abutment member extending across an area between outer ends of the respective fingers.

### ***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen L. Blau whose telephone number is (571) 272-4406. The examiner can normally be reached on Mon - Fri 10:00 AM - 6:30 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on (571) 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SIb/31 January 2007



STEPHEN BLAU  
PRIMARY EXAMINER